FILED

March 21, 2025

CLERK, U.S. DISTRICT COURT WESTERN DISTRICT OF TEXAS

Y:_____NM

DEPUTY

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

MARK ANTHONY ORTEGA,

Plaintiff,

v.

CIVIL NO. SA-24-CV-00487-OLG

SIENNA MARKETING & CONSULTING INC.,

Defendant.

ORDER ADOPTING REPORT & RECOMMENDATION

The Court has considered United States Magistrate Judge Elizabeth S. Chestney's Report and Recommendation (R&R), filed March 4, 2025, concerning Defendant's Motion to Dismiss under Rule 12(b)(6). (See R&R, Dkt. No. 25.)

Any party who desires to object to a Magistrate Judge's findings and recommendations must serve and file specific written objections within fourteen days after being served with a copy of the findings and recommendations. FED. R. CIV. P. 72(b)(2). Based on the record, Plaintiff, who is proceeding pro se, was electronically served with a copy of the R&R on March 5, 2025. To date, no objections have been filed, and the time to do so has passed.

Accordingly, because no party has objected to the Magistrate Judge's findings or recommendations, the Court reviews the R&R for clear error. See United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989); cf. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which an objection is made.") After such review, the Court finds that the R&R is neither clearly erroneous nor contrary to law.

The Court therefore **ADOPTS** the Magistrate Judge's R&R (Dkt. No. 25) and, for the reasons set forth therein, Defendant's Motion to Dismiss (Dkt. No. 12) is **GRANTED IN PART** and **DENIED IN PART** as follows:

- Plaintiff's class action claims and cause of action under 47 U.S.C. § 227(b) are
 DISMISSED.
- Plaintiff's remaining claims will proceed without prejudice to Defendant's moving for summary judgment on an evidentiary record.

It is so **ORDERED**.

SIGNED this _____ day of March, 2025.

ORLANDO L. GARCIA United States District Judge